

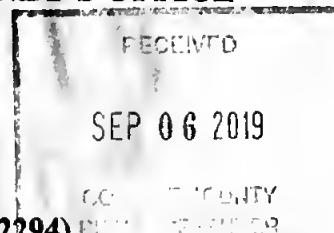
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JAY J MUNLEY
CLERK OF SUPERIOR COURT
BY

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5 TERISHA DRIGGS (ASB No. 032294)
Deputy County Attorney, Drug Unit

6 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

7 IN AND FOR THE COUNTY OF COCHISE

8 STATE OF ARIZONA,

9 Plaintiff,

10 vs.

11 SAMANTHA CHILDS,

12 Defendant.

Case No. CR201900614

CR201900621✓

RESPONSE TO DEFENDANT'S
MOTION TO MODIFY
CONDITIONS OF RELEASE

Hon. Timothy Dickerson
Diy. IV

15 COMES NOW the State of Arizona, through the Cochise County Attorney,
16 BRIAN M. MCINTYRE, and TERISHA DRIGGS, his Deputy, responds to Defendant
17 Samantha Childs ("Defendant") Motion to Modify Conditions of Release ("Motion").

18

19 I. SUMMARY OF THE FACTS

20 CR201900614

21 On August 1, 2019 officers conducted a traffic stop based on a tail lamp that was
22 not illuminating the license plate. The driver and registered owner was Frederick Cleere.
23 The front passenger was the Defendant and the back seat passenger was Todd Ingalls.
24 The Defendant had a valid arrest warrant and she was taken into custody. Officers then
25 proceeded to take the Defendants purse from the floorboard in order to bring her
26 property with her. Underneath the purse was a zip lock baggie that contained
27 methamphetamine.

1
2 **CR201900621**

3 On March 9, 2019 Officers conducted a traffic stop based on a mandatory
4 insurance suspension. The driver was identified as the Defendant and the passenger was
5 identified as Scott Akers. The Defendant appeared to be nervous and a K-9 officer was
6 on scene. The K-9 officer was going to conduct a free-air sniff but when the passenger
7 was asked to step out of the vehicle and a syringe fell out of his pocket. Akers advised
8 that he was not diabetic. He was placed under arrest and more illicit drugs were found
9 on his person. Officers then conducted a search of the vehicle and found a syringe in a
10 pink purse that the Defendant was trying to remove from the car earlier. The syringe had
11 a dark brown liquid in it. The Defendant stated that the syringe belonged to "Kim." Also
12 found in the purse was a large knife. Underneath the driver's seat officers found a make-
13 up bag that contained a blue pipe, a clear pipe, and a black spoon with residue. It was
14 suspected that the substance in the syringe was heroin, but later testing revealed that it
15 was methamphetamine. Additionally, the Defendant admitted in a jail call that the
16 substance in the syringe was methamphetamine.

17 **CR201900647**

18 On May 30, 2019 officers conducting surveillance observed a Tahoe that had a
19 license plate that returned to a pick up truck. They observed the Tahoe leave the
20 property they were surveilling. The driver made a U-turn in the middle of the road and
21 drove for several minutes without headlights, which were required for the time of day.
22 Officers conducted a traffic stop and discovered the Defendant was the driver and only
23 occupant of the vehicle. Officers ran the VIN number on the Tahoe and found it to be
24 registered to the Defendant and her estranged husband, Brian Childs. Officers observed
25 in plain view a syringe in the back on the floor. At this time officers placed the
26 Defendant under arrest for the fictitious plate and the drug paraphernalia. Officers
27 conducted a search of the Defendant's purse and discovered four unused syringes, four
28



1 used syringes, 3 syringes loaded with what later tested positive as being
2 methamphetamine. Additionally there was a black case that contained a glass dish
3 which held a usable quantity of methamphetamine.

4 **II. LEGAL BASIS AND ARGUMENT TO DENY DEFENDANT'S
5 MOTION**

6 Rule 7.2(A) provides that if the Court finds that an own recognizance release would
7 not reasonably assure the person's appearance as required or protect other persons or the
8 community from risk posed by the person, then the Court may impose additional
9 conditions of release, to include third-party custody and monetary requirements.

10 A.R.S. § 13-3967(B) provides a list of factors the Court should consider when
11 determining release conditions. For the following reasons, the State opposes Defendant
12 being released to a third party:

13 1) Views of the victim:

14 N/A

15 2) The nature and circumstances of the offense charged

16 See Summary of Facts above.

17 3) Whether the accused has a prior arrest or conviction for a serious offense
18 or violent aggravated felony.

19 N/A

20 4) Evidence the accused poses a danger to others in the community.

21 The Defendant poses a danger to her children, ex-husband, and herself. She
22 has a significant history of domestic violence including physically causing
23 harm to her daughter.

- 1 5) **Results of a risk or lethality assessment in a domestic violence charge that**
2 **is presented to the court.**

3 N/A.

- 4 6) **Weight of evidence against the accused.**

5 The weight of evidence is significant, including evidence seized from the
6 Defendant's person, law enforcement observations and reports.

- 7 7) **The accused family ties, employment, financial resources, character and**
8 **mental condition.**

9 The Defendant resides in Cochise County. It appears that she has family
10 that reside in Cochise County.

- 11 8) **The results of any drug test submitted to the court:**

12 N/A

- 13 9) **Whether the accused is using any substance if its possession or use is illegal**
14 **pursuant to chapter 34 of this title.**

15 N/A

- 16 10) **Whether the accused violated §13-3407, subsection A, paragraph 2,3,4 or**
17 **7 involving methamphetamine or §13-3407.01:**

18 The instant offense involves possession of methamphetamine for personal use.

- 19 11) **The length of residence in the community.**

20 It is believed that the Defendant is an Arizona resident.

- 21 12) **The accused's record of arrests and convictions.**

22 The Defendant has the following record of arrests/convictions:

- 23 • CR2018-0530: March 16, 2018: arrested for assault/domestic violence

- 1 • CR2018-0757: April 23, 2018: arrested for disorderly conduct/domestic
- 2 violence
- 3 • CR2018-1020: May 20, 2018: pending charges for domestic violence
- 4 assault, disorderly conduct, and failure to appear
- 5 • CR2018-1387: July 12, 2018: pending charges for domestic violence
- 6 disorderly conduct and failure to appear
- 7 • CR2018-1450: July 18, 2018: arrested aggravated interfering with
- 8 judicial procedure/domestic violence
- 9 • CR2019-0091: January 23, 2019: pending charges for domestic violence
- 10 assault, disorderly conduct, and failure to appear

11 13) The accused's record of appearance at court proceedings or of flight to
12 avoid prosecution or failure to appear in court proceedings.

- 13 • CR2018-1020: failed to appear 5/29/2019
- 14 • CR2018-1020: failed to appear 7/17/2019
- 15 • CR2018-1387: failed to appear 5/29/2019
- 16 • CR2018-1387: failed to appear 7/17/2019
- 17 • CR2019-0091: failed to appear 5/29/2019
- 18 • CR2019-0091: failed to appear 7/17/2019

19 14) Whether the accused has entered or remained illegally in the United States.

20 N/A

21 15) Whether the accused's residence is in this state, in another state or outside
22 the United States.

23 24 Defendant is believed to reside in Arizona.

III. CONDITIONS OF CONFINEMENT

The Defendant's conditions of confinement at the Sierra Vista Jail are not a violation of the Eighth Amendment. The Defendant was in protective custody in Sierra Vista in order to avoid any potential retaliation as she used to work for the Cochise County Jail. Defense Counsel provides his diagnosis of "anxiety and emotional lability", but the State is unaware of any credentials that would qualify Defense Counsel to make this or any other medical or mental health diagnosis. The Defendant has access to books, the telephone, and occasionally has cellmates. Recently the Defendant was moved to the Bisbee Jail.

IV. CONCLUSION

The above factors justify maintaining the current release conditions. The "...purpose of bail under the Arizona Constitution is to guarantee a defendant's appearance in court while protecting victims, witnesses, and the public..." *Fragoso v. Fell*, 210 Ariz. 427, 433-34, 111 P.3d 1027, 1033-34 (Ct. App. 2005). The Defendant is being held in misdemeanor cases as she failed to appear as ordered by the court on two separate occasions. The Defendant was ordered to diversion through the CARE Court process. The Defendant failed to make the required appointments with SEABHS and refused to participate in drug treatment. The Defendant advised the Court that she would not participate in substance abuse counseling as it would interfere with her nursing license. The Defendant was unsuccessfully discharged from CARE Court. She has been arrested for possession of illicit drugs on three occasions in the past five months.

The Motion states that the Defendant's father is suffering from medical issues that she could assist with and care for him. In a jail call placed to her sister on August 16, 2019 the Defendant stated that her father's condition is "a get out of jail free card for me." Her father also lives in Michigan, and the State would oppose release conditions that would permit the Defendant to relocate to Michigan pending the resolution of these cases.

The current conditions are required to assure the safety of the Defendant's family members and herself. They are also necessary to assure her appearance.

Wherefore, the State respectfully requests that the current conditions be maintained.

RESPECTFULLY SUBMITTED this 16th day of September, 2019.

COCHISE COUNTY ATTORNEY

By: Terisha Driggs
TERISHA DRIGGS
Deputy County Attorney

Copy of the foregoing mailed/delivered/faxed this 10 *day of September, 2019.*

The Honorable Timothy Dickerson
Judge of the Superior Court
Division IV
Bisbee, Arizona 85603
Via Court Distribution Box

day of September, 2019.

Kai Henderson, Esq.
Attorney for Defendant
Via Court Distribution Box

